

Norma E. Ortiz
Ortiz & Ortiz, LLP
127 Livingston Street
Brooklyn, New York 11201
Tel. 718.522.1117
email@ortizandortiz.com

Hrg. Date: Jan. 17, 2011
Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re

JUAN APUPARO,

Case No. 11-50140-JF

Debtor

Chapter 11

-----X

RESPONSE TO MOTION TO LIFT THE AUTOMATIC STAY

Ortiz & Ortiz, L.L.P., counsel to Juan Apuparo (the “Debtor”), hereby states in response to the Motion for Relief From the Automatic Stay filed by Montague-Lee Limited Partnership (the “Landlord”) as follows:

1. The Debtor leased two spaces from the Landlord for commercial use in Queens County in the same building. The larger space is used by the Debtor as an indoor sports center for local soccer teams. The smaller space, which is located in a basement, is sub-leased to a corporation owned by the Debtor’s sister. The sub-tenant uses the space for light sewing and garment manufacture.

2. The Debtor has complained of water problems and poor conditions in the two spaces for years. The sports center has been plagued by a leaky roof that has caused repeated business closures and damages to the Debtor’s business. In addition, the basement has suffered repeated flooding that has resulted in business interruptions for the sub-tenant. The conditions continue to the present: the Debtor had no running water in December for a number of days.

3. Stated summarily, the Landlord obtained a default judgment against the Debtor in state court for non-payment of rent. The Debtor appealed that decision and, upon information and belief, that appeal was stayed by the bankruptcy filing. The Debtor intends to seek an order for relief from the automatic stay to prosecute that appeal.¹

4. Although the Debtor believes that he was, in fact, actually evicted from the sports center and basement, he no longer wishes to continue to occupy the premises. He wishes to pursue his claims for damages against the Landlord and use the proceeds to satisfy the claims of his creditors. The space has been, and continues to be, in such bad condition he can not continue to operate in the space.

5. The undersigned will attempt to reach an agreement with the Landlord's counsel to provide the Debtor with the time to relocate his business on consensual terms. If not, the Debtor will request, from the Court, and order that provides for same.

WHEREFORE, the Debtor requests that the Court grant the relief requested and grant such other and further relief as the Court deems just.

Dated: Jan. 11, 2012
Brooklyn, New York

S/Norma Ortiz
Norma E. Ortiz, Esq.
Ortiz & Ortiz, L.L.P.
127 Livingston Street
Brooklyn, New York 11220
Tel. (718) 522-1117
Debtor's Counsel

¹ The Debtor is represented by landlord and tenant counsel in the state court.